

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

CORNING OPTICAL
COMMUNICATIONS WIRELESS LTD.,

Plaintiff,

v.

LGC WIRELESS, INC., et al.,

Defendants.

Case No. [5:15-cv-03976-EJD](#)

**ORDER GRANTING MOTION TO
TRANSFER; DENYING MOTION TO
DENY OTHER MOTIONS WITHOUT
PREJUDICE**

Re: Dkt. Nos. 33, 47

On August 31, 2015, Plaintiff Corning Optical Communications Wireless Ltd. (“Corning”) filed a complaint for patent infringement in this district against Defendants LGC Wireless, Inc. (“LGC”), ADC Telecommunications, Inc. (“ADC”), and TE Connectivity Ltd. Since that time, four motions have been filed: (1) a motion to transfer this action to the United States District Court for the District of Delaware filed by LGC and ADC (Docket Item No. 33); (2) a motion to intervene filed by CommScope, Inc. of North Carolina and CommScope Technologies LLC (Docket Item No. 34); (3) a motion to disqualify Corning’s counsel filed by ADC (Docket Item No. 35); and (4) a motion to deny without prejudice the motions to intervene and disqualify filed by Corning (Docket Item No. 47). Notably, the transfer motion is unopposed.

In its opposition to Corning’s motion to deny other motions without prejudice, LGC and AGC request this court seemingly delay any transfer until after it decides the motion to disqualify counsel. They contend that transferring the case now without ruling on the disqualification issue will encourage gamesmanship and frustrate standards of professional conduct. The court disagrees, however, that a transfer would result in such consequences. As this court understands it, Corning’s counsel will not be absolved of any potential basis for disqualification simply

1 because the case is sent to another jurisdiction. Indeed, the particular conflict cited in the papers
2 will presumably still exist, and the District of Delaware is well-equipped to determine whether that
3 conflict requires Corning to seek out new counsel under California authority or otherwise.
4 Gamesmanship is not encouraged and standards of professional conduct are not frustrated just by
5 changing venue to the court that, without question, will ultimately oversee this case.

6 At the same time, this court does not find it appropriate to deny any motions without
7 prejudice. This case can be transferred with those motions pending. The judge that ultimately
8 receives it can decide whether the disqualification and intervention motions can be heard on the
9 current briefing, or whether those motions need to be renewed with amended pleadings.

10 Accordingly, Corning's motion to deny the disqualification and intervention motions
11 without prejudice is DENIED. The motion to transfer is GRANTED. Because the court finds no
12 persuasive reason to delay, the Clerk shall transfer this case to the United States District Court for
13 the District of Delaware and close this court's file.

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IT IS SO ORDERED.

15 Dated: November 13, 2015

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17 EDWARD J. DAVILA
18 United States District Judge